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May 6, 1996

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Implementation of Sections of the)
Cable Television Consumer Protection)
and Competition Act of 1992)
Rate Regulation)
)
Leased Commercial Access)

MM Docket No. 92-266

CS Docket No. 96-60

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission-Mail Stop 1170

Comments of Erwin Scala Broadcasting Corporation

1. These Comments are filed by Erwin Scala Broadcasting Corporation in response to the Commission's "Further Notice of Proposed Rulemaking" in this proceeding, FCC 96-122, released March 19, 1996. We are the operators of low power television station KSSY-LP, Arroyo Grande, California.

2. Our station, Route 66TV, originated as K66CY and has been on the air since 1989. Last year we were granted call letters KSSY-LP. We thank you for allowing that! It has been quite a struggle being the "unwanted stepchild" Without Must Carry on the local cable systems it is extremely difficult to co-exist with the other (high power) TV stations in our market, even though we do much more local programming than any of them. Since our market has around 86% cable penetration it is imperative to our success that

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we be on the cable systems. So we decided to try and buy our way on the cable systems, i.e. leased access. We have three main systems in our market and sent a certified letter to all three of them requesting leased access rates. Two of them answered within the required amount of time, Falcon didn't, and has never answered any of our letters, nor even taken any of our calls, ("who's calling please, I'll see if she's in..." she's never in, and never calls us back when she gets in). We can't afford the attorney fees to force them to reply with a leased access amount that is too expensive for any reasonable business to afford.

3. Leased access cost, according to two of the cable systems in our market would run us around **\$70,000 per month**, for around 75,000 households! This is totally unfair to low power stations. We are the ones that need the help. In my area people just don't understand that they can get (good) TV without paying for cable TV. We regularly advertise in the newspaper and on radio, we show up at local events, we are extremely visible in our communities, we are in the local newspaper "TV Listings". And yet when we tell people about us they say "I have cable, I can't get you're station", or "I **don't** have cable, I can't get you". As you can see we are a cable community!

4. Your proposed rule for a new formula for leased access onto cable systems will help immensely! **WE MUST BE ON CABLE**. We are willing to pay, if we must, but it must be a reasonable rate. Not a rate so outrageous that we are prevented from operating on the same level as the other TV stations in our area. Why do they get Must Carry ? They would be on the cable systems regardless.

The cable systems would lose subscribers if they couldn't watch their local ABC, NBC or CBS, and since no one living in my area knows what a TV antenna is, let alone how to put one up, they would soon go out of business. But, back to reality, the American way is to let the marketplace decide, unfortunately, low power stations are not included in the same rules that dictate the marketplace (no must carry, secondary status, Zoning codes preventing homeowners & mobilhomes from putting up TV antennas, **unrealistic leased access costs**).

5. Advertising revenues seem to be a "hidden factor". Since the cable companies don't have to carry low power stations they can lock us out of that marketplace. 86% of the people in my area have cable TV, and therefore we are essentially excluded from the marketplace. The cable companies would not lose advertising revenues, indeed they hope to put us out of business by not carrying us on their systems, therefore removing some of the competition.

6. Without any "penalties" for failure to respond, the arrogant cable companies simply ignore us. There needs to be some sort of check and balance so that the cable companies that refuse to deal with the low power stations will not be able to simply not answer, as in the case of our local Falcon Cable Company.

7. The new leased access proposal needs to be implemented immediately! The cable companies cannot claim hardship, since there would not be any lost revenues. These cable companies have become so "big" that they have no valid excuses for keeping the low power stations off of their systems.

8. We are not asking for preferential treatment, we are asking for equal treatment. (Actually, equal treatment would be giving us must carry rights, but that is another matter for another time.) Because of our local programming content we are needed in our community. The other (high power) stations just can't cover the kind of local stuff that we can, and do!

9. One other point that I need to bring up regarding cable carriage is that in our area many of the communities have local zoning codes that **prohibit** homeowners from putting up TV antennas. This includes housing districts and most ~~all~~ of the trailer parks. Without cable carriage we can't get into any of those homes.

10. Please hear ours and other low power stations' pleas. Don't kill us off; if you give us a chance, we will show you that we really are an important part of our community.

Respectfully submitted,



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